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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791			HOYE, MICHAEL W	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/545,267

Filing Date: April 07, 2000

Appellant(s): FRISCO ET AL.

MAILED
APR 07 2005
Technology Center 2600

Michael W. Taylor
For Appellants

EXAMINER'S ANSWER

This is in response to the Appeal Brief filed on January 13, 2005 appealing from the Office Action mailed on August 10, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The Appellants' statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Grouping of Claims

The rejection of claims 32-33, 35-36, 39-42, 45 and 47 stand or fall together because Appellants' brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,990,928	SKLAR ET AL.	11-1999
6,249,913	GALIPEAU ET AL.	6-2001
5,973,722	WAKAI ET AL.	10-1999

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 32-33, 35-36, 39-42, 45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklar et al (USPN 5,990,928), in view of Galipeau et al (USPN 6,249,913), in further view of Wakai et al (USPN 5,973,722). This rejection is set forth in a prior Office Action, mailed on August 10, 2004.

(11) *Response to Argument*

With respect to independent claims 32 and 41, the Appellants argue on page 5, line 9, that, "Galipeau et al. fails to clearly state that the passengers may actually select the flight

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information provided via the additional input.” And, in lines 15-19, the Appellants argue that, “Galipeau et al. fails to state that the passengers have control for selecting the input versus the pilot or flight crew selecting when the flight information is to be displayed – such as when a flight update is made by the pilot or flight crew.”

In response to the Appellants’ arguments above, the Examiner refers back to a prior Office Action, the Final Rejection mailed on August 10, 2004, where the base reference, Sklar et al, clearly discloses the claimed, “permitting passenger selection of one of the programming channels...for display thereon”, as taught in col. 9, lines 26-35, where each passenger may view channels independently of the channels chosen at other passenger terminals. As described by the Examiner in the prior Office Action, the Sklar et al reference discloses all of the claimed elements of independent claims 32 and 41, with the exception of explicitly disclosing the claimed, “moving map image generator for generating a flight information channel...” The Examiner is using the Galipeau et al reference to provide a teaching of the claimed, “moving map image generator for generating a flight information channel...”, as disclosed in element 198 of Fig. 12 and as described in col. 11, lines 25-38, where additional programming may be provided to the passengers, including a map of the flight route with the aircraft superimposed over its present position (moving map image), as well as the aircraft direction or heading, the air speed, the altitude, and other additional features. The Appellants appear to be arguing the references individually in the Appeal Brief and not in combination as in the rejection made by the Examiner. In addition, the Galipeau et al reference states in col. 11, lines 25-34, that, “Aircraft systems 198 provide data to the passenger concerting the aircraft flight...[and] Additional video inputs including a map of the flight route with the aircraft superimposed over

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its present position, television programs or a camera providing a view similar to that of the aircraft may be offered to the passenger." Therefore, passengers may select from various video inputs and data provided to them including a map of the flight route and other television programs. Furthermore, as described by the Examiner in the previous Office Action, the Wakai et al reference was provided to further substantiate or provide an additional teaching that the passengers may select one of the programming channels and a flight information channel as met by an aircraft in-flight entertainment system (AIFE) with a video on demand system (VOD), which allows each passenger to have selection of various video and audio channels, as well as various other features and services, including a moving map display feature (col. 1, lines 40-50, 59-65 and col. 2, lines 7-19).

The Appellants' further argue, on page 6, line 3 – page 7, that, "the Examiner is using impermissible hindsight reconstruction to modify Sklar et al. in view of Galipeau et al. and in further view of Wakai et al. to produce the claimed invention. Appellants assert that there is no proper motivation to selectively modify the prior art references in the manner set forth by the Examiner absent the Appellants' disclosure."

The Appellants continue to argue on pages 6-7 that:

"...Sklar et al. fails to mention providing any other type of programming channels to the passengers, i.e., such as a flight information channel.

The IFE system in Galipeau et al. discloses a flight information channel available to the passengers, but fails to clearly state that the passengers select the flight information channel. In addition, the IFE system in Galipeau et al. fails to disclose that the IFE system comprises a satellite TV receiver.

The IFE system in Wakai et al. discloses a flight information channel that may be selected by each passenger for viewing the flight route and the aircraft's current position along the route, but Wakai et al. fails to

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discloses a processor for determining aircraft speed and aircraft altitude in addition to the aircraft's position displayed along the flight route. As with the Galipeau et al patent, Wakai et al. fails to disclose that the IFE system comprises a satellite TV receiver.

More specifically, one of ordinary skill in the art would not look to modify the Sklar et al. patent to include a moving map image generator for generating a flight information channel including a moving representation of the aircraft position on the map image, or that the moving map generator comprises a processor for determining an aircraft position during flight, and at least one of an aircraft direction, aircraft speed, and aircraft altitude for display with the moving map image, without having had the benefit of studying the Appellants' specification."

In response to Appellants' argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, and as previously stated in the Final Rejection mailed on August 10, 2004, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Appellants' disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to Appellants' argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). As previously stated in the Final Rejection, the Sklar et al., Galipeau et al., and Wakai et al. patent references are all in-flight aircraft entertainment systems (IFE). The Sklar et al

reference discloses an aircraft in-flight entertainment (AIFE) system which includes a satellite television (TV) receiver as shown in Fig. 2 by the switching/receiver/decoder (SRD) 40, which further comprises receiver/decoder unit 42 and receives broadcast entertainment signals for a geostationary satellite associated with a program provider. The Sklar et al reference also discloses a processor for determining an aircraft position during flight as described in col. 8, lines 29-61, where a GPS control device may be implemented. Although, the Sklar et al reference does not explicitly disclose a moving map image generator for generating a flight information channel including a moving representation of the aircraft position on a map image...and permitting passenger selection of one of the programming channels and flight information channel for display thereon. The other two references, Galipeau et al and Wakai et al, used in the rejection disclose or teach IFE systems comprising a flight information channel and a moving map image generator. The Galipeau et al reference discloses an aircraft in-flight entertainment and data management system. The Galipeau et al reference teaches that additional video programming may be provided to the passengers, including a map of the flight route with the aircraft superimposed over its present position (moving map image), as well as the aircraft direction or heading, the air speed, the altitude, and other additional features (see col. 11, lines 25-38 and 198 of Fig. 12). The Galipeau et al reference further discloses the claimed said moving map image generator comprises a processor for determining an aircraft position during flight as shown by airplane systems 198 and network controller 186 in Fig. 12, which inherently comprises a processor for determining position as included with the airplane systems 198 in the figure (col. 11, lines 25-38). Although the Galipeau et al reference does not explicitly disclose whether or not the passengers may select the flight information channel, the Wakai et al

reference teaches the claimed permitting passenger selection of one of the programming channels and flight information channel as met by a AIFE with a video on demand system, which allows each passenger to have selection of various video and audio channels, as well as various other features and services, including a moving map display feature (see col. 1, lines 40-50, 59-65 and col. 2, lines 7-19). Therefore, it would have been clearly obvious to one of ordinary skill in the art of AIFE systems at the time the invention was made to have combined the satellite TV receiver AIFE system of Sklar et al that generates a plurality of programming and services with the moving map image generator flight information channel, which includes a representation of the aircraft position on a map image as taught by the Galipeau et al reference, as well as a similar moving map image generator flight information channel that is controlled on demand by each passenger as taught by the Wakai et al. reference. One of ordinary skill in the art would have been led to make such a modification since it would further enhance a satellite TV receiver AIFE system to further include a moving map image generator/flight information channel or service that may be selected by the user or passenger along with the satellite TV and other channels or on demand services already included in the IFE system, which would bring additional satisfaction and enjoyment to the passengers who desire to know additional information about the aircraft flight. These features are all well known in the art of IFE systems could easily be combined into a single IFE system by one of ordinary skill in the art for the advantages as previously described above.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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March 28, 2005

Conferees

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